

REMARKS

In the Office Action mailed July 12, 2004, the Examiner rejected claims 47-69. By way of the foregoing amendments and the markings to show changes, Applicants have amended the specification, claims 47, 53, 56, 60, 63 and 67, canceled claims 61 and 68 and added new claims 70-75. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

I. Drawings

The Office Action rejected the drawings suggesting that, "the 'protrusion' and 'channel' must be shown or the feature(s) canceled from the claim(s). Applicants have submitted additional drawing 26 to shown these features.

II. Claim Objections

The Office Action objected to claims 53, 60 and 67 as, "failing to further limit the subject matter of a previous claim." Applicants have amended these claims to overcome the objections.

III. Claim Rejections under 35 USC 112

The Office Action rejected claims 61 and 68 under 35 USC 112. Claims 61 and 68 have been canceled.

IV. Claim Rejections under 35 USC 102

The Office Action rejected claims 47-69 as being anticipated by Delmastro (6,354,623). Applicants traverse these rejections. Applicants have amended claims 47 and 56 and believe that these claims are patentable. Applicants traverse the rejection of claim 63 with particularity.

Claim 63

Applicants traverse the rejection of claim 63 on the ground that the Office Action has not properly established a prima facie case of anticipation against claim 63.

The MPEP sec. 2131 quotes Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053, (Fed. Cir. 1987) as reading, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

The Office Action asserts, at page 3, that the "panels" of Delmastro, "maybe [sic] made of several materials including the materials and that these panels (12, 14) need not be made of the same material." At col. 2, lines 38-46 Delmastro discloses potential materials suitable for both an upper retainer and a lower retainer. At col. 2 lines 47-58, Delmastro discloses that one of the retainers may be formed of a material having a "greater low temperature flexibility". Delmastro does not disclose one panel formed of PC/ABS and another panel formed of polypropylene. Moreover, Delmastro does not disclose the combination of PC and ABS or PC/ABS as recited in claim 63. As such, the Office Action has failed to properly assert a prima facie case of anticipation against at least claim 63 of the present invention. Applicants request that the rejection of claim 63 be withdrawn.

Furthermore, Applicant points out that it would likely be improper to present a final rejection of claims 63 on a grounds alternative to that already presented since applicants have not amended those claims in a manner, which would necessitate such alternative grounds. In particular, the MPEP reads:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee..." MPEP 706.07(a)

Thus, any new grounds of rejection, "that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee..." would be improper.

V. New Claims

Applicants have added claims 71-75 to address various aspects of the invention of the present application.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants intend to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

CONCLUSIONS

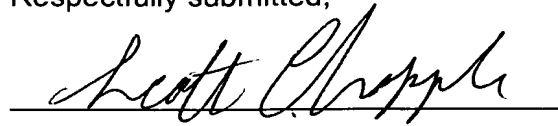
In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 593-9900.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an

extension for the required time period and/or authorization to charge our Deposit Account No. 04-1512 for any fee which may be due.

Dated: 5 October, 2004

Respectfully submitted,

A handwritten signature in cursive script, reading "Scott A. Chapple", is written over a horizontal line.

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